

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

: \_\_\_\_\_ :

THE COMMONWEALTH OF PUERTO RICO,  
Plaintiff,

vs.

PUERTO RICO POLICE DEPARTMENT, et al.,  
Defendants.

:  
:  
: Case No:  
: 12-CV-2039 GAG

: \_\_\_\_\_ :

TRANSCRIPT OF STATUS CONFERENCE - VIDEO TELECONFERENCE  
HELD BEFORE THE HONORABLE CHIEF JUDGE GUSTAVO A. GELPÍ  
JOSÉ V. TOLEDO U.S. COURTHOUSE, OLD SAN JUAN, PUERTO RICO  
THURSDAY, MAY 28, 2020, BEGINNING AT 10:07 A.M.

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**A P P E A R A N C E S:**

For the United States of America:

Attorney Timothy D. Mygatt, U.S. Department of Justice

Attorney Luis E. Saucedo, U.S. Department of Justice

Attorney Jorge M. Castillo, U.S. Department of Justice

**For the Commonwealth:**

Attorney Arturo J. García-Sola

Attorney Lizzie M. Portela-Fernández

**ALSO PRESENT:**

Sonia C. Cardona, Courtroom Deputy Clerk

JCC Monitor Alfredo A. Castellanos-Bayouth

Retired Justice Federico Hernández-Denton

John Romero, Federal Monitor

Dr. Alex De Carmen, Special Master

Henry Escalera, Puerto Rico Police Commissioner

Colonel Clementina Vega, Director Police Reform Office

## Status Conference

1 THE COURT: Good morning. Let's call the  
2 case.

3 THE COURTROOM DEPUTY: Civil case  
4 No. 12-2039. United States of America versus  
5 Commonwealth of Puerto Rico, et al. Set for status  
6 conference. Will the parties please identify  
7 themselves for the record.

8 MR. SAUCEDO: Good morning, Your Honor.  
9 This is Luis Saucedo for the United States.

10 MR. GARCÍA-SOLA: Good morning, Your Honor.  
11 This is Arturo García for the PRPD along with Lizzie  
12 Portela.

13 MR. CASTILLO: Good morning, Your Honor.  
14 This is Jorge Castillo for the United States.

15 FEDERAL MONITOR ROMERO: John Romero, the  
16 Federal Monitor.

17 MR. CASTELLANOS-BAYOUTH: Alfredo  
18 Castellanos, senior counsel for the federal monitor.  
19 Good morning.

20 RETIRED JUSTICE HERNÁNDEZ-DENTON: Good  
21 morning. Federico Hernández-Denton, senior counsel  
22 for the federal monitor.

23 SPECIAL MASTER DEL CARMEN: Good morning.  
24 Alex Del Carmen, special master.

25 THE COURT: Well, good morning to all.

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1 Before we commence, I'm going to ask everybody to  
2 please make sure you put your Jabber on mute while I  
3 speak. Once I'm done I will call everybody and  
4 obviously everybody will have an opportunity to speak  
5 and address the Court so we will do that one by one.  
6 So, that's the way we're going to proceed. So,  
7 having said that, let's call the case for the record.  
8 I think we already called it. Right?

9 THE COURTROOM DEPUTY: Yes, we did.

10 THE COURT: Okay. Now, let me first address  
11 a matter that has come to my attention 20 minutes  
12 before the hearing. I was informed by my courtroom  
13 deputy and my judicial assistant that Secretary  
14 Janer -- first of all, there was a request by way of  
15 telephone from Secretary Janer's office that this  
16 hearing be continued until 1:00 p.m. Obviously this  
17 is not by way of motion and this was, you know,  
18 20 minutes ago. Then there was a second follow-up  
19 call or notification to the Monitor that Secretary  
20 Janer right now is in a cabinet meeting and cannot  
21 attend and he would try to attend later.

22 I would like to make a point on this and it  
23 is as follows: Two weeks ago I first issued the  
24 first order in this case and in that order the order  
25 itself states that Secretary Janer will be in

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1 attendance at this status conference. Second, last  
2 week I issued a second order and in the second order  
3 I set the order of the individuals who would be  
4 addressing the Court, and Secretary Janer is the  
5 first one to appear.

6 The reason for this is the following: In  
7 all my hearings I usually -- well, in this case, same  
8 in the health case, the juvenile institution consent  
9 decree case, and in many other hearings that I've  
10 had, whenever there's a governor, a sitting governor  
11 or cabinet member usually -- and the scope of the  
12 hearing pertains to that cabinet member, he or she  
13 will go first and then the cabinet member sits  
14 through the meetings [inaudible] and talk about and  
15 to get input from the Court and feedback and also the  
16 Court will probably have questions.

17 For the past 18 years we've been over that,  
18 that I have been a judge and, as I said, I've had  
19 sitting governors, cabinet members appear in court.  
20 And I do have to say that I am flabbergasted because  
21 this is the first occasion where any government  
22 official from the Commonwealth ever flaunts two court  
23 orders directing him to appear. And in the past if  
24 there had been any issues they were notified to the  
25 Court beforehand in writing way in advance. As I

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1 said, it's important for the top government official  
2 to always be present because he or she is the one who  
3 is going to set the tone for the hearing. And, as I  
4 said, also he or she has to be present throughout the  
5 hearing because important matters regarding the  
6 agency will be addressed. The agency at work here in  
7 particular is the reform.

8 Now, it is so troubling, and I will state  
9 myself more, that the local executive branch on the  
10 one hand who strictly enforces these executive orders  
11 at this time in the Covid pandemic -- and I have to  
12 say that even I in my official capacity follow those  
13 orders 7/24 and I order all the court staff to follow  
14 those orders; but, on the other hand, the executive  
15 branch is ignoring federal court orders. And this is  
16 something that cannot be taken lightly by any federal  
17 court or tolerated. I also think it's offensive to  
18 the United States Department of Justice and to the  
19 other party in this case who was expecting his  
20 presence.

21 Now, let me say something else. The  
22 perception of this is that the government does not  
23 care about the police reform case and does not intend  
24 to follow federal court mandates. And I am holding  
25 the Commonwealth responsible rather than Secretary

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1 Janer personally. I have known Mr. Janer since his  
2 days in the DEA office here in Puerto Rico and I can  
3 swear to his integrity and I know that his support to  
4 the reform is unquestionable. It would appear to the  
5 Court that individuals within the Commonwealth  
6 government other than Janer may not want him to  
7 appear or did not diligently apprise him of the  
8 setting in accordance with this hearing in a timely  
9 matter.

10 More so, I am certain that if there's a  
11 cabinet meeting at this time the governor herself is  
12 likely unaware of this court hearing or of my orders;  
13 and if she were aware, like every other governor  
14 before her, she would have her secretary appear. And  
15 probably even from Fortaleza he would appear by way  
16 of Jabber. And I also note that the governor herself  
17 is an experienced attorney. She was very  
18 distinguished for her professionalism throughout her  
19 career, so I'm certain also that she is not to blame  
20 for this occurring.

21 Now, it is also fortunate that U.S. DOJ  
22 counsel, the monitor, special master are appearing  
23 via Jabber; otherwise, you know, I would order that  
24 the travel cost be referred to the Commonwealth. So  
25 I do want to make that statement for the record.

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1           We're going to proceed first with the  
2       special master then the monitor and I will then  
3       continue to address any other matters in this case.  
4       I cannot continue this hearing, I have another  
5       hearing after this. In the afternoon I have other  
6       matters. Because of the Covid pandemic and being the  
7       chief judge of the court I have multiple matters  
8       throughout the entire day. It is not easy to  
9       reschedule a hearing like this when everybody is  
10      prepared and at least the Court is informed  
11      20 minutes beforehand of this matter. So we'll have  
12      to proceed and Secretary Janer will have to review  
13      the transcript of the hearing.

14           So, having said that, I'm going to mute  
15      myself. I'd like to hear first from Dr. Del Carmen.  
16      If I have to make any questions, I'll unmute myself.  
17      So let's proceed this way.

18           SPECIAL MASTER DEL CARMEN: Good morning,  
19      Your Honor. Essentially what I wanted to convey to  
20      the Court is some of the things that I've been  
21      working on and will continue to work on for the  
22      coming weeks and months. And first and foremost, as  
23      per the Court order that you issued a few days ago, I  
24      am coordinating and meeting the efforts to bring the  
25      parties together along with the monitor in order to

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1 agree on the sampling methodology for all of the 11  
2 areas of the police reform case.

3 As Your Honor may recall, you asked me last  
4 year in my capacity as a special monitor -- as a  
5 special master rather to come in and essentially lead  
6 the efforts and coordinate the efforts to agree on a  
7 methodology. That has -- we succeed in that regard  
8 but there were some areas, particularly the sampling  
9 component, that needed to be expanded. And so now  
10 through the benefit of time, after the methodology  
11 was approved by the Court last year, we are facing  
12 now the question of what the sampling strategy should  
13 be for each one of the 11 components in place.

14 So the plan, Your Honor, is to simply put  
15 the monitor's team, along with U.S. DOJ, along with  
16 the Commonwealth and PRPB to meet and essentially  
17 have a conversation on all of these 11 areas. So  
18 with the direction of Dr. Levy and my oversight we  
19 can provide the Court in the coming months a strategy  
20 and a sampling methodology that everyone can agree  
21 upon. And so it is my hope that this is going to be  
22 taking place in the coming months.

23 And needless to say, Your Honor, this is  
24 paramount to the success of the actual monitoring.  
25 So if the sampling strategy is agreed upon and if the



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1 sampling strategy is scientific, if there's science  
2 behind it, then all the findings that will be made by  
3 the monitor and his team are going to be  
4 scientifically made and to some degree indisputable.  
5 But it is essential that PRPB and the Monitor's  
6 office, as well as U.S. DOJ sit at the table and  
7 agree upon that sampling strategy that will take  
8 place in this particular case. Go ahead, Your Honor.

9 THE COURT: Let me ask you, regarding the  
10 sampling, and this is a topic I'm going to discuss  
11 with the parties, but I believe the information  
12 technology is essential to the sampling because if we  
13 don't have current sampling and it's not current then  
14 nobody knows what information is there, and obviously  
15 it has to get plugged in to put it in the information  
16 system. That's an important endeavor. But, number  
17 two, the idea is necessary because with updated IT  
18 you can sample at any given point and in any given  
19 place, any given zone, you can make pretty accurate  
20 samples and be able to predict or to read those like  
21 data. Am I correct?

22 SPECIAL MASTER DEL CARMEN: That's correct,  
23 Your Honor. And this has to do with the validity and  
24 reliability of the data. So in the world of research  
25 we look at whether or not the data is valid and

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1 reliable in order to ensure that whatever type of  
2 prognosis, whatever type of general findings that the  
3 Monitor's office would make are simply going to stand  
4 the rigor of science. So to your point, Your Honor,  
5 it is essential that the data that's being collected  
6 is accurate within a three percent margin of error  
7 and that the reporting mechanisms are also solid in  
8 order to be able to ensure a prognosis.

9 THE COURT: Thank you.

10 SPECIAL MASTER DEL CARMEN: Yes, Your Honor,  
11 the second of the three points that I wanted to make  
12 to you as well and to the Court is essentially that I  
13 continue to work on the role of the -- on the non-law  
14 enforcement role of the national guard as the Court  
15 ordered. And what we -- what I have done is sought  
16 out the input of U.S. DOJ, the Monitor's office, as  
17 well as PRPB and the Commonwealth in trying to get a  
18 sense of what this non-law enforcement role of the  
19 national guard would be in the event that the  
20 governor finds it necessary to activate the national  
21 guard. And of course we all know that this can take  
22 place not only as a result of the Covid-19 pandemic  
23 but also because of natural disasters that are not  
24 strangers to the Commonwealth.

25 So at the end of the day the hope and the

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1 plan would be, Your Honor, that by June 5th, as the  
2 Court has ordered, I will be submitting to Your Honor  
3 a report that essentially shows the different sides  
4 and the different angles to this component and my  
5 recommendation for these specific non-law enforcement  
6 roles that the national guard will simply seek.

7 THE COURT: And let me ask you regarding  
8 that. This should not be a very complicated task. I  
9 have seen, for example, in New Mexico it was very  
10 clearly outlined. Again, not specific particular  
11 duties but in general terms of the scope of the  
12 particular duties, and that was done particularly in  
13 some smaller Indian nations that were located in New  
14 Mexico and the governor and the local mayors of  
15 those -- or chiefs of those towns or municipalities  
16 were able to really coordinate with the national  
17 guard. So I assume something akin to that or what is  
18 probably, as you probably know better than -- well,  
19 definitely you know better, maybe as it's happening  
20 in your own state or other jurisdictions, that that  
21 is pretty clear. Correct?

22 SPECIAL MASTER DEL CARMEN: Yes, Your Honor.  
23 And that is very typical in other states of the  
24 United States whereas the national guard provides a  
25 non-law enforcement supportive role. And so there

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1 are various models out there. Obviously what we are  
2 all considering is the capability of PRPB, the  
3 realities of the Commonwealth, and what fits the  
4 Commonwealth; because we can't simply just transplant  
5 another model that worked somewhere else into the  
6 Commonwealth. So with that sense there's definitely  
7 guidance out there, which I've done some research on  
8 and I've been briefing the Court on a regular basis,  
9 regarding the models that exist. Yes, Your Honor.

10 THE COURT: Okay, and before you move on,  
11 let me say that I want to make it very clear that the  
12 Court is -- again, this is really an executive  
13 decision whether to call the national guard or not,  
14 it is not up to the Court. The only thing the Court  
15 has to make sure of is that if the national guard is  
16 out there it is not performing traditional law  
17 enforcement activities, and if it ever were to do so  
18 that's a further analysis and those officers have to  
19 not act as national guardsmen, they have to act  
20 within the requirement. But anything that does not  
21 entail traditional law enforcement activities -- and  
22 there are many things historically the national guard  
23 has done here in Puerto Rico, an excellent job --  
24 that's what we want to ensure is done in coordination  
25 with the police and not to violate the reform. Okay,

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1 and the last item.

2 SPECIAL MASTER DEL CARMEN: Yes, Your Honor.  
3 The final point is that once we finish the sampling  
4 methodology, and I have submitted to the Court the  
5 report on the national guard and on law enforcement  
6 role, as per your orders, Your Honor, I will be  
7 focusing on the use of force content analysis as it  
8 relates to the instruction that PRPB officers are  
9 receiving regarding that topic. So the idea would be  
10 to simply review the content, of course to look at  
11 the syllabi that's being utilized and the method in  
12 which the police officers are being trained as it  
13 relates to use of force.

14 We feel that this topic is incredibly  
15 important for the Court to look into and also to  
16 brief and keep everyone else on this call, the  
17 parties, you know, and the monitor, informed of the  
18 findings that I make. So with the help of the  
19 parties, with the assistance of the monitor, my hope  
20 is to provide the Court with an assessment of not  
21 only the content but informing which of those use of  
22 force instructions is being delivered. We lost you,  
23 Your Honor.

24 THE COURT: Sorry. Let me rewind. I had my  
25 mute on. But it's very important about the use of

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1 force, the study and what you're going to be  
2 performing is. Because of the Covid pandemic we do  
3 not know exactly when the officers can start training  
4 regularly. And officers, pursuant to the reform,  
5 continue to receive -- well, it's like continuing  
6 legal education but with the police law enforcement  
7 education. And that's very, very important that that  
8 be conducted.

9 Now, there have to be ways in which to have  
10 these trainings virtually. There have to be  
11 obviously some exercises. The academy has to be  
12 flexible. Perhaps instead of training 60 officers at  
13 a time maybe it's going to be 10, 15 socially  
14 distanced or at offices where, you know, the specific  
15 measures have been taken so they would not get the  
16 Covid, but that has to be done. I know other  
17 jurisdictions are also looking at it and it's very,  
18 very important.

19 One of the things is the training at the  
20 academy. And let me note that Commissioner Henry  
21 Escalera and I believe Clementina -- Colonel Vega, is  
22 there as well wearing a mask. But they've been to  
23 the academy when I've been there, Monitor Romero has  
24 been there, as well as you, Dr. Del Carmen, and we  
25 saw, it was probably February or March of last year,

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1 the training, live training. And it was very  
2 important because it was a use of force training and  
3 it was a riot training. And it was showing  
4 how not -- you know, in the old days you would see  
5 that officers would pull out their batons and start  
6 hitting everybody or restraining people or even  
7 worse. That training, I think, was extremely crucial  
8 and many more trainings took place. But during the  
9 protests in 2019 during the summer what I saw, at  
10 least on television which everybody saw, the officers  
11 were in formation. The way they were using the  
12 levels of use of force was consistent with those  
13 trainings. And that is something that cannot be  
14 forgotten otherwise we're going to run into a lot of  
15 problems, the police and the Commonwealth with a lot  
16 of problems, which it is not having.

17 Again, Monitor Romero will discuss that  
18 matter in more detail but it is very important that  
19 whatever errors may still be committed compared to  
20 10, 15 years before are not being committed. There  
21 is room for improvement, but we cannot take a step  
22 back and that's why this is so important.

23 So thank you, Dr. Del Carmen. We will now  
24 hear. I'll mute myself and we will hear from Monitor  
25 John Romero.

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1 FEDERAL MONITOR ROMERO: Good morning, Your  
2 Honor and to everyone else present in this  
3 videoconference. I'd like to start by briefing you  
4 bit activities of the Monitor's office. As the  
5 parties and Court are aware, the Monitor's office  
6 submitted its first compliance report on March 29th  
7 of this year. The report provided the monitor's  
8 compliance assessment of PRPB with three areas of the  
9 agreement: Policies procedures, use of force, and  
10 information technology.

11 PRPB has made some measurable progress  
12 towards complying with the mandates of the Agreement  
13 particularly with respect to: Identifying and  
14 outlining how deadly use of force is to be  
15 investigated, handling of mass demonstrations, and  
16 creation of policy and procedures. Nevertheless,  
17 these reforms still lag behind the performance  
18 benchmarks outlined in multiple performance areas of  
19 the Agreement, especially regarding information  
20 technology and the work of the FIU when investigating  
21 firearm discharges by its members.

22 In the case of FIU, in order for them to  
23 accomplish being in compliance with the Agreement,  
24 they must have continuous and unobstructed access to  
25 critical information collected internally by other



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1 units within the bureau and externally by other  
2 agencies within the DSP umbrella. In the case of IT,  
3 we are working with PRPB with the aspiration of  
4 having the bureau progress from the capacity building  
5 stage to compliance monitoring.

6 We commend PRPB for its commitment to the  
7 reform effort and in working with the Monitor's  
8 office. We also have to acknowledge, as you  
9 indicated, Judge, the Bureau's success in recruiting  
10 qualified candidates and developing a comprehensive  
11 training curriculum. The Honorable Judge Gelpí and I  
12 had the opportunity to witness firsthand that  
13 training and to attend the graduation of the last  
14 class in March of this year. And by that way -- and  
15 by the way, the first report, CMR-1, is available on  
16 the Monitor's office website which is fpmpr.org. You  
17 can see the entire report there.

18 The Monitor's office has been kept duly  
19 informed as to matters related to the Covid-19  
20 pandemic by the Bureau. As per the Court's  
21 directives, we have continued our work remotely with  
22 the assistance of PRPB and the U.S. DOJ. The  
23 Monitor's office has submitted data requests to PRPB  
24 for the areas under review and PRPB has scanned that  
25 data and provided it to the subject matter experts

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1 for their review and analysis. We are aware that the  
2 above has created numerous challenges and those  
3 challenges are properly being handled by Colonel  
4 Clementina Vega and her Reform unit staff.

5 The monitor will also be working with  
6 Special Master Dr. Alex Del Carmen to address these  
7 matters. As directed by the Court and of significant  
8 importance to the police reform, our office in  
9 conjunction with the monitor and Mr. Javier González  
10 have commenced conference calls with CIC personnel  
11 and community leaders since the 21st of this month.

12 Going forward, the Monitor's office will be  
13 utilizing a user-friendly and secure platform called  
14 Go-to Meeting to conduct remote video conferences  
15 with PRPB personnel and its representatives, U.S. DOJ  
16 personnel, special master, and community leaders.  
17 The above measures will allow the Monitor's office to  
18 continue with its community outreach efforts.

19 It will also provide an effective way for  
20 the monitor to work closely with the special master  
21 in terms of the random samplings that are being  
22 conducted in accordance with the methodology that was  
23 agreed upon by the parties and by the Court.  
24 Although we have implemented the above-mentioned  
25 mechanisms to remotely conduct our monitoring duties

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1 for the present, we plan to return to our normal  
2 monitoring activities when we adopt a proper protocol  
3 and proper measures with the approval of the Court.

4 On another note, the Monitor's office is in  
5 the process of finalizing its report on the PRPB's  
6 response to the mass demonstrations that took place  
7 at the Fortaleza in July of 2019. We project our  
8 report to be completed and submitted to the Court by  
9 next month.

10 In closing, the Monitor's office would like  
11 to extend its gratitude to the parties for their  
12 collaboration in the reform process. Working  
13 together much has been accomplished, and going  
14 forward much will be achieved, Your Honor. Thank  
15 you.

16 THE COURT: Monitor Romero, I have just a  
17 couple of questions. You mentioned IT and that  
18 you're working on the IT and this is something  
19 obviously I'm going to ask the parties as part of the  
20 agenda. IT is very important but what is even more  
21 important than IT is that the right and that all  
22 information be inputted into the system so you,  
23 counsel, the police, U.S. DOJ, myself can access it  
24 readily. And, again, for purposes of statistical  
25 sampling and everything if all the information is not

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1 there that is important. And you were mentioning the  
2 firearm discharges, there may be use of force  
3 incidents, but what is your perception or what is  
4 your take on that and the importance of that?

5 FEDERAL MONITOR ROMERO: Well, in terms of  
6 monitoring, Your Honor, our monitoring will only be  
7 as good as the data received. I mean, we had some  
8 issues with the use of force data in terms of how  
9 many incidents. I believe we've corrected that area.  
10 We've ben working with the PRPB and U.S. DOJ, but our  
11 concern is that we're getting accurate information.  
12 And with the IT platform being where it is now,  
13 access to data in all 11 areas are subject to IT  
14 obviously and we're not sure they're in place to  
15 provide the data that we need. That's the issue. We  
16 want to make sure that the data we're evaluating PRPB  
17 with is accurate data; otherwise, it's a flawed  
18 system.

19 But that's the current issue we're working  
20 with U.S. DOJ and PRPB to establish whether or not  
21 the information we're receiving in these 11 areas is  
22 accurate information because what we can do is only  
23 as good as the data we get.

24 THE COURT: And where we are now is capacity  
25 building is there but compliance monitoring cannot

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1 start, or if it starts it's not going to be reliable  
2 because of the data. Correct?

3 FEDERAL MONITOR ROMERO: That's correct.  
4 And we're working with the special master as well to  
5 make sure that the data we're getting is accurate  
6 data so we can make intelligent, educated assessments  
7 of PRPB's compliance with the Agreement.

8 THE COURT: Okay, thank you. The other  
9 matter that you did not address but I would like you  
10 to address briefly which I'm going to address to the  
11 parties is, I'd like to hear from you a bit regarding  
12 community engagement. Obviously because of the Covid  
13 the entire team has not been able to make it to  
14 Puerto Rico because of all the restrictions in your  
15 respective jurisdictions. And obviously there's a  
16 risk that you all come here and when you go back --  
17 so right now we're working on a control scenario and  
18 we only have two senior counsel and the executive  
19 director of the office present here in Puerto Rico.

20 What are you doing specifically about  
21 community engagement? because I did issue an order  
22 and we're going to use all the technology and start  
23 doing it by way of VTC. And I do note what you had  
24 last informed me that the executive director of your  
25 office, Mr. Javier González, was arranging for at

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1     least one or two community meetings within the  
2     next -- or, you know, the first part of June. So  
3     what can you tell us about that?

4             FEDERAL MONITOR ROMERO: Yes, Your Honor.  
5     We started that on the 21st of this month. U.S. DOJ  
6     also participated as well, we appreciate your  
7     participation. Before the pandemic hit, the  
8     Covid-19, we had set up a meeting with CIC personnel  
9     done through PRPB and U.S. DOJ participated as well,  
10    and we met with all the CIC personnel throughout the  
11    island then the Covid-19 pandemic hit. So now we had  
12    to -- as per your court order, we had to remotely  
13    start interactions with the community groups. And  
14    through Javier González, the director of the office  
15    down there, he has set up, with U.S. DOJ  
16    participating as well, meetings with different CIC  
17    personnel and community leaders.

18            We've had already two meetings this past  
19    week and we're going to continue that through the  
20    process. We hope to be getting back to Puerto Rico  
21    as soon as possible. Our best work can be done when  
22    we're there, but obviously having a senior counsel  
23    there, as well as Javier González it works out quite  
24    a bit. And with the plan of using technology  
25    continue interacting with the community groups as

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1 well.

2 THE COURT: Okay. And when you talk about  
3 community groups, obviously you're having community  
4 engagements with police in different regions but also  
5 with the Dominican community, for example, LGBTQ  
6 community, I know there's also the Asian American  
7 community, and other types of communities which we've  
8 seen over the many hearings throughout the years.  
9 You're reaching out to all those communities slowly  
10 but surely, correct?

11 FEDERAL MONITOR ROMERO: We are. And  
12 thankfully Sarah from U.S. DOJ has been very helpful  
13 in providing information. And we've reached out not  
14 only to the CIC but to all groups in Puerto Rico.  
15 And we want to have dialog with them, establish that  
16 dialog. Now, with the website going up as well and  
17 establishing the office we have now, Puerto Rico I  
18 think is going to go a long way in building those  
19 bridges. And I have to thank U.S. DOJ who's very  
20 helpful in that area with the community.

21 THE COURT: Okay. Well, thank you, Monitor  
22 Romero. So I'm going to mute you and now I'm going  
23 to hear from U.S. DOJ. Before I hear from  
24 Mr. Saucedo, I do want to note that Attorney Timothy  
25 Mygatt from U.S. DOJ, he's Attorney Saucedo's chief,

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1 he's the deputy chief of the special litigation  
2 section on civil rights. And if I got that wrong,  
3 Mr. Mygatt, please correct me. And before I hear  
4 from Mr. Saucedo, is there is anything you wish to  
5 state for the record, I invite you. And thank you  
6 for be being here.

7 MR. MYGATT: Good morning, Your Honor.  
8 Thank you, you've got it correct. And I wanted to  
9 start by thanking you for inviting me to participate  
10 in today's status conference. We know that the  
11 pandemic presents a challenge for everyone. And we  
12 appreciate all the efforts being made by the courts,  
13 the monitor, the special master and the Commonwealth  
14 to continue to move the case forward. We at the  
15 civil rights division have also had to adjust to the  
16 pandemic and all the changes that it entails and we  
17 will continue to do so as the situation arises. I'm  
18 going to turn it over to Mr. Saucedo and Mr. Castillo  
19 on any specifics. I just wanted to make a few  
20 preliminary remarks, Your Honor.

21 First, I wanted to say that we are saddened  
22 by the passing of two PRPB officers from Covid-19.  
23 One of the officers died from Covid-19 -- and these  
24 deaths are a real tragedy, and I want to acknowledge  
25 that fact. We recognize that the PRPB officers along



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1 with law enforcement officers all around the country  
2 are working tirelessly to keep our communities safe,  
3 trying to protect the community while also protecting  
4 themselves and others from exposure to the virus.  
5 And they need our support and we are standing by  
6 ready to support them here at the civil rights  
7 division.

8 We also appreciate the updates we're getting  
9 from the reform office and PRPB on PRPB's response to  
10 the Covid-19 virus including especially its efforts  
11 to provide officers with personal protective  
12 equipment and guidance on other safety measures that  
13 they can take. And we also appreciate the  
14 information on PRPB's enforcement of the governor's  
15 state-at-home orders that are in effect. This  
16 information-sharing that we're getting from the  
17 reform office is critical during this challenging  
18 time, and that the closer that we all coordinate  
19 together the more successful we can be.

20 We've been working closely with other  
21 jurisdictions around the country in the same way that  
22 we have been working with PRPB as they confront these  
23 challenges and yet continue to move the process of  
24 the reform forward. And I'm pleased to say that in  
25 every jurisdiction that I'm working in we've been

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1     able to see the reforms move forward while also  
2     taking good, sound measures to protect officers from  
3     the pandemic.

4             I also just wanted to say it's crucial that  
5     we really continue that focus on the reforms that  
6     were underway before the pandemic. The monitor  
7     already spoke to this a little bit, but his first  
8     report highlighted areas that need continued  
9     attention during this case. We're happy to engage  
10    here this morning about the PRPB's efforts on -- I  
11    continue to agree with these investigations on  
12    officer-involved shootings, it's one of the  
13    highlights of that report, as well as the other topic  
14    we talked quite a bit about, Your Honor, is the  
15    collection of analysis and data through much needed  
16    technology and information systems for the PRPB that  
17    will both enable the PRPB to perform its judiciously  
18    but also allow the monitor to have adequate data  
19    about PRPB's performance under the consent decree.

20            So just quickly, Your Honor, we appreciate  
21    the Court holding the status conference to hear  
22    directly from the parties and ensure that we're  
23    continuing progress under the Agreement especially  
24    during the time of the pandemic. We think it's  
25    critically important that we pull together at this

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1 time and work collaboratively, and we believe this  
2 status conference also sets the stage for that  
3 collaboration.

4 Now, more than ever, Your Honor, we need to  
5 communicate well as a group and not surprise each  
6 other. We need to keep the spirit of trust and  
7 confidence in this process and we need to model our  
8 officers on how to protect effective leadership  
9 during a crisis, and I think that we are on the path  
10 to doing that. After all, Your Honor, I think we all  
11 have the same goals in this case and that is  
12 effective constitutional policing in Puerto Rico  
13 which reduces crime, protects democracy, and protects  
14 our civil liberties.

15 So we're looking forward to working with all  
16 of you in this case. I'll turn it over to  
17 Mr. Saucedo or Mr. Castillo if they have additional  
18 items they'd like to address.

19 THE COURT: Okay, thank you, Mr. Mygatt.  
20 Before I hear from Mr. Saucedo or Mr. Castillo, let  
21 me note that I do join -- the Court also joins  
22 Mr. Mygatt and the U.S. DOJ in offering condolences  
23 to the families of the two fallen police officers who  
24 because of the Covid passed away. I personally have  
25 written a letter to the widows and their families.

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1 One of them actually worked at the federal  
2 courthouse, he was on detail and at ICE. And he was  
3 at the court for a very long time working on sex  
4 offender cases involving children so we are extremely  
5 saddened.

6 I would also like to comment, Mr. Mygatt, I  
7 think this is something I just want the parties to  
8 write because you said something very important about  
9 effective leadership in a crisis. And I think that  
10 this is something -- again, it's not the scope of  
11 this hearing, this status conference, but I think the  
12 parties and the monitor should discuss that, as well  
13 as the special master, because that is something that  
14 the academy which must do a lot of trainings now --  
15 they were doing a lot of trainings originally, some  
16 online, but now more than ever have to go online.  
17 But that is something that probably each and every  
18 officer from the latest cadets that just graduated,  
19 they were not expecting this challenge, all the way  
20 up to Commissioner Escalera.

21 It is very important because everybody at  
22 this time is a leader, and that is something that  
23 perhaps speakers or some, you know, remote courses  
24 from the academy on this I think are especially very  
25 important. And, again, I do have to applaud the work

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1 of the police during this crisis because they're -- I  
2 don't go out. I try not to go out. I've been  
3 basically here in my home except for a couple of  
4 times I have to go to the office but when I do go out  
5 the few times, they are there at every corner, they  
6 are doing their jobs. They're wearing their  
7 equipment, they're wearing their masks and being very  
8 diligent. And that is what we expect, and their  
9 presence has been felt. And they have been arresting  
10 individuals who have not been following these  
11 executive orders, and that is to the benefit of all.  
12 So, thank you, Mr. Mygatt.

13 Then Mr. Saucedo, it's your turn. The  
14 agenda, the topics that I wanted the parties to  
15 discuss -- and, again, if there's any other topic  
16 feel free to add that at the end or at any point.  
17 And I think Mr. Mygatt has discussed some of these,  
18 but it's the status of the ongoing police trainings  
19 in light of Covid-19, community engagement, the IT  
20 update, remote monitoring during Covid, and the Covid  
21 protocol. So all these things kind of go around the  
22 Covid issue.

23 Again, Mr. Mygatt, Dr. Del Carmen, and  
24 Monitor Romero also talked about some of these but  
25 please feel free to add any other thoughts and

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1 discuss anything else you may have to. And I'm going  
2 to mute myself.

3 MR. SAUCEDO: Thank you, Your Honor. This  
4 is Luis Saucedo for the United States. And Tim  
5 Mygatt covered all of the opening remarks we had. We  
6 do -- we are prepared to address each of the issues  
7 that the Court listed on the agenda. And, Your  
8 Honor, if you want to take them one by one we're  
9 prepared to do that.

10 THE COURT: Yes, please go one by one and  
11 then the Commonwealth will have an opportunity to  
12 address them. I will give you then an opportunity if  
13 you need to respond briefly to anything, but it's  
14 easier than switching back and forth with this Jabber  
15 system. So go ahead and everything you have to say  
16 go ahead and say it. Take your time.

17 MR. SAUCEDO: Thank you, Your Honor. On the  
18 first topic related to the status of police training  
19 during Covid, we understand the need to restrict the  
20 academy to avoid large gatherings. The Police Bureau  
21 for the last two years has been implementing virtual  
22 training and that should continue to the extent  
23 possible. We all recognize the training is critical  
24 to the reform process and, you know, the Police  
25 Bureau should be looking at plans to reopen or modify

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1 its training process so that can continue.

2 As Mr. Mygatt mentioned, one priority area  
3 in training is officer-involved shootings and the  
4 training that investigators from the Force  
5 Investigation Unit receive. This is a finding in the  
6 monitor's report. We believe that the training  
7 should focus on administrative investigations, on  
8 parallel proceedings, and on use of force.

9 Many police departments assign their most  
10 seasoned and experienced investigators to homicide  
11 units on the criminal side and it's important that  
12 the Force Investigation Unit which is assigned to  
13 SARP be equally experienced and highly trained. And  
14 so we do look forward to following up with the  
15 Commonwealth, with the Police Bureau, and with the  
16 Monitor's office to find ways to strengthen this  
17 unit. This is an area that does need focused  
18 attention and we do want to work with the  
19 Commonwealth on this. One of the comments we raised  
20 in our response to the monitor's report is the need  
21 for a corrective plan to address all of the different  
22 issues that were identified by the monitor in his  
23 first report.

24 And finally, Your Honor, this is something  
25 that Mr. Del Carmen mentioned earlier and that is

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1 that it is important to review the content of  
2 training. We don't want the training itself to  
3 undermine the policies that are being promoted in  
4 writing, and so the training is critical; and  
5 reviewing the content, to the extent that it has not  
6 already been reviewed, is important in this process.

7 Your Honor, the next point related to  
8 community engagement. We agree with the Court on the  
9 importance of community engagement during the  
10 pandemic. We have been able to see the community use  
11 technology to stay connected. In April we were  
12 invited to attend a video conference held by about 40  
13 organizations to address the ten murders or deaths of  
14 transgendered individuals on the island over the past  
15 year. And they were able to use a virtual platform  
16 to share ideas, express concern, and think of ways to  
17 solve this problem.

18 We know that the Monitor's office has also  
19 started to use telephone conferences to meet with  
20 leaders from the interaction committees. We believe  
21 that this should extend to organizations and other  
22 leaders in the community beyond the community  
23 interaction committees. We're prepared to assist the  
24 monitor in any way we can in the town halls and in  
25 the other initiatives that were outlined in the



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1 monitor's May 4th technology plan.

2 Your Honor, on IT this is a very important  
3 issue. We are concerned, Your Honor, with the slow  
4 pace of progress in this area. In March of 2019, the  
5 Commonwealth reported that its technology and  
6 information systems were not in compliance with the  
7 Agreement and that they did not allow for rapid,  
8 efficient and appropriate data collection for the  
9 various parts of the reform agreement. The Court  
10 also observed that without effective and simultaneous  
11 data collection and a review by everybody involved  
12 the Court, the parties, and the monitor, that it's  
13 wholly impossible to rapidly and effectively  
14 determine compliance or noncompliance with the  
15 Agreement. And we agree wholeheartedly with that.

16 So as part of our discussion of the sampling  
17 methodology, the sampling strategy by the Monitor's  
18 office, we believe it's important to address the  
19 quality of the data that's being collected and the  
20 integrity of the data. We were very concerned to  
21 hear that the Commonwealth originally reported less  
22 than 200 uses of force during the evaluation period  
23 and upon further review found that there were  
24 actually more than 400 uses of force. And so, Your  
25 Honor, this is an issue raised as part of the

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1 sampling strategy.

2 We know that we will be holding conference  
3 calls led by the special master to discuss sampling,  
4 but the data collection and analysis is an important  
5 piece to that. We think there are three questions we  
6 should be asking ourselves in each of these areas:  
7 Number one, is the information system in place that  
8 is needed to gather data? We know that there are  
9 various systems being developed and implemented. At  
10 the same time we should look at each one and figure  
11 out where they are along the development process.

12 Number two, and the Court mentioned this in  
13 its opening remarks, and that's the quality  
14 control -- ensuring that the data going into the  
15 system is good quality and that can be used to make  
16 decisions. And then, number three, it's also  
17 important to see how this data is used in the  
18 day-to-day operations of the Police Bureau. It  
19 doesn't help anything and it doesn't help certainly  
20 for sustainability purposes that monitoring be  
21 collected simply for monitoring, and that it be  
22 provided to the monitor for compliance but then not  
23 used internally to guide the operations of the police  
24 department or Police Bureau. So that's an important  
25 part that we also wanted to work with the special

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1 master with all of the other parties.

2 Your Honor, you mentioned also remote  
3 monitoring during the pandemic. You know, we did  
4 make comments in our response to the monitor's first  
5 report lining the monitoring with the monitoring  
6 methodology. And we know that the methodology calls  
7 for a number of different methods. Site visits which  
8 are obviously off the table right now, but we  
9 encourage the monitor to continue doing interviews of  
10 both PRPB personnel and the community to the extent  
11 that he needs to be able to reach solid conclusions  
12 about where we are in implementation.

13 And finally, Your Honor, on the Covid-19  
14 protocol for PRPB, we are encouraged by the numbers  
15 that are being shared by the Police Bureau. We're  
16 seeing decreasing numbers of officers in quarantine.  
17 At one point they had reached about 1,000 officers in  
18 quarantine. The latest number we received from PRPB  
19 indicate that less than 300 officers are now under  
20 quarantine. We do lament the tragic loss of the two  
21 officers, and we expect that the Police Bureau will  
22 continue to provide support and address safety issues  
23 for the police.

24 In this regard, Your Honor, we stand ready  
25 to assist the Commonwealth in the implementation of

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1 it's Covid-19 protocol. The civil rights division is  
2 not responsible for any federal funding or how that's  
3 disbursed but we have made that information available  
4 to the Commonwealth. There is special pots of moneys  
5 that have been set aside for law enforcement during  
6 the pandemic. We've seen other jurisdictions apply  
7 and get that money and we look forward to assisting  
8 the Commonwealth in what we can in this regard.

9 THE COURT: Thank you, Mr. Saucedo. What I  
10 would like to highlight about what you said is  
11 obviously the site visits are not being conducted at  
12 this time either by U.S. DOJ personnel or you or  
13 anybody else from your team. To come down here  
14 it's -- you know, you'd probably have to go back and  
15 quarantine yourself. You may have to come here and  
16 it's not practical at this moment. So that is going  
17 to have to wait.

18 The federal court is closed at least until  
19 July 6th. My fellow judges and I, along with the  
20 clerk of court, reconvene later in June to determine  
21 when we can partially or somewhat open under strict  
22 measures, and that is something all the courts are  
23 struggling with. But we, first of all, to us the  
24 most important thing as the court and within that  
25 unit is the health and safety of all our personnel,

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1 of all our employees, all the attorneys who practice  
2 before the court, and obviously I consider the  
3 monitor and his staff as part of my court staff, but  
4 that's very important.

5 I do want to note that Mr. Romero is  
6 extremely anxious and is saying he wants to come next  
7 month wait and I've been saying, Wait, until I let  
8 you come because it is not simple. We don't want  
9 anybody having to come here and getting ill. The  
10 Covid has different -- and fortunately in Puerto  
11 Rico -- again, every death counts but compared to  
12 other jurisdictions and compared to Mississippi  
13 average and similar in size, the number of deaths  
14 here has been extremely low.

15 Even if the statistics -- and, again, some  
16 people criticize, other people say they're accurate,  
17 but notwithstanding, based on the number of death  
18 which are Covid-related, we are doing very well here  
19 thanks to the governor's early curfew issues -- I  
20 mean, not issues, executive orders, and everything  
21 that went. So we're keeping it that way for the time  
22 being. I think working virtually will really help  
23 and it's a way to stay connected and make sure all  
24 the stakeholders in the community as well as the  
25 police officers are safe.

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1 But Monitor Romero did want to come and he  
2 was ready, willing, and able to come. Unfortunately,  
3 he went jogging over the weekend and he tripped and,  
4 as you can see, he's got a bandage, he has nose  
5 stitched, a broken finger. So that will keep him --  
6 he's still working around the clock but he'll have to  
7 do it remotely a little bit more. And I also know  
8 that when he couldn't come here because of flight  
9 stoppage, Attorney Castellanos himself got, I will  
10 call it, a decontamination suit and equipment he got  
11 on his own, probably from Amazon, and he was ready,  
12 willing, and able, and he was about to go out to some  
13 areas and meet with some police officers in different  
14 areas.

15 I, myself, do not go. Right now is not the  
16 time. We need to be safe as with Monitor Romero, and  
17 I think that counsel and for all of us in this time  
18 period it's more important that we stay in our homes  
19 or in our offices rather than start going into the  
20 community. Eventually we will have the measures in  
21 place to start doing so slowly but surely, so that's  
22 very important. So, having said that, let me then  
23 hear from the Commonwealth. Let me mute myself.

24 MR. GARCÍA-SOLA: Good morning to all. This  
25 is Arturo García appearing for the Commonwealth of

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1 Puerto Rico. I'm here with Lizzie Portela. The  
2 commissioner is also here, as well as Colonel  
3 Clementina Vega.

4 I first would like to express my greetings  
5 to Monitor Romero. When I tried to reach out to you  
6 yesterday I couldn't and then I reached out to the  
7 special master and he informed me that you had an  
8 accident. I see that you still have some issues  
9 about the accident. Sorry that you went through that  
10 especially at this time and I hope that you recover  
11 as quickly as possible. So best wishes for you,  
12 John.

13 Second, I would like to address the Court in  
14 his statements about Secretary Janer and explain the  
15 situation. When the Court issued its orders  
16 concerning the status conference, rest assured that  
17 we communicated those orders not only to the  
18 secretary but also to the commissioner. As of  
19 yesterday afternoon both of them were available to  
20 participate. I had kept checking with them to ensure  
21 that there would be no problem.

22 Yesterday afternoon at 2:00 p.m. I received  
23 a notice from the secretary -- actually at 1:50 in  
24 the afternoon yesterday telling me through the text  
25 that he had had a very difficult week, that he

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1       unfortunately, that he unfortunately had a conflict  
2       for today, that he would have to be attending  
3       meetings at the La Fortaleza dealing with security  
4       issues, and asking me to see if I could try to do  
5       something about either getting a postponement or some  
6       other alternative.

7               I unfortunately did not see this message  
8       until approximately 7:00 p.m. because the firm is now  
9       back to onsite operations. We have onsite operations  
10      on Tuesday with a very strict COVID-19 protocol that  
11      includes separating all of the staff and the  
12      attorneys in the office into two groups -- Group A  
13      and Group B. Group A returned to the office on  
14      Tuesday the 26th. Group B returned to the office  
15      yesterday, Wednesday the 27th. And so we will  
16      alternate every day, Group A and Group B so that our  
17      propensity is lowered to less than 50 percent because  
18      some people have been allowed to be working remotely.

19             Because we returned to the office on Tuesday  
20      morning I had back-to-back orientations as required  
21      by the regulations of the Department of Labor at our  
22      own Covid-19 meeting protocol. Because of the social  
23      distancing requirements of the protocol and  
24      regulations and the executive orders those meetings  
25      were conducted in the biggest conference room which



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1 Your Honor has seen and has been not more than 20  
2 people were allowed to come into the conference room  
3 for those orientations, and that's why we had to  
4 conduct as many orientations.

5 As the managing director of the office so as  
6 to make sure that there was only one voice in  
7 directing all those orientations, I was responsible  
8 for each and every one of those orientations. The  
9 orientations began at 9:30 in the morning and  
10 concluded around 5:30 yesterday which for some reason  
11 were longer because there were many questions by the  
12 employees around 6:00 p.m. And, as the parties on  
13 the call understand, there is still a curfew order  
14 and we had to let people go. And according to our --  
15 we also instituted a system of turns, so people could  
16 leave the offices at 5:00, 5:30, and 6:00 p.m., at  
17 the latest 6:30 so that they could reach their homes  
18 on time to comply with the curfew. So I did not see  
19 the e-mail, the text that I received from the  
20 secretary because I was conducting this orientation.

21 Upon receipt of the -- upon realizing that I  
22 had this request from the secretary who, by the way,  
23 I have to say was very set in appearing, as well as  
24 the commissioner because both of them had indicated  
25 that they would make themselves available for the

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1 meeting and they wanted to be present. When I saw  
2 the secretary's text I reached out to the monitor and  
3 I left a message again saying that I was not aware  
4 saying that he had had an accident. I waited a  
5 reasonable time and when I did not get a response, I  
6 now understand why, from the monitor, I reached out  
7 to the special master. I explained the situation to  
8 the special master. This happened yesterday evening  
9 at -- this was at 9:00, 9:00 p.m. yesterday.

10 When I realized that I probably would not be  
11 hearing from the monitor -- again, I now know about  
12 your accident -- I reached out to the special master.  
13 I explained the situation to him at that time. I was  
14 already at home and simply we frankly tried to do the  
15 most expedited process to reach out to the Court. At  
16 the same time I communicated to the commissioner that  
17 he had to be available for the meeting and made  
18 everything possible so that he would be able to  
19 participate. The special master and I exchanged not  
20 only a long phone call on which Lizzie Portela  
21 participated, but also a number of texts during the  
22 night and this morning.

23 And so, Your Honor, very respectfully, we  
24 tried to do the best thing possible to reach out to  
25 the Court, to inform the Court that the secretary had

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1 an issue and that he would not be able to attend. My  
2 first request to the special master was to try to  
3 reconvene for a later date, obviously that didn't  
4 happen. And so my second request was then let's have  
5 the commissioner participate and he was actually  
6 prepared to give opening statements. And that's  
7 exactly what happened. There was no intent to flaunt  
8 the Court. There was absolutely no interest in being  
9 disrespectful to the Court. In the many years that  
10 I've been practicing with clients I have never seen a  
11 situation with any of us being disrespectful to the  
12 Court, and I can assure the Court, and when  
13 appropriate the secretary will do the same thing,  
14 that no disrespect and no flaunting was in process.  
15 On the contrary, we tried as quickly as possible to  
16 take alternate measures.

17 Nobody, no one gave any instructions to  
18 anybody in the Commonwealth not to participate in the  
19 conference, and I can continue to assure the Court  
20 that the Commonwealth at every level, including from  
21 the governor down, are especially committed with the  
22 reform efforts and the reform process. The best  
23 evidence of that is that the parties continue to  
24 collaborate through difficult times.

25 The PRPB has complied with every request.

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1 The PRPB within the difficult circumstances has  
2 produced all the documentation, which happens to be  
3 massive, that the monitor and his team has requested  
4 be produced with respect to the monitor and his  
5 officers. But in addition to that, the PRPB has been  
6 providing updates, regular and periodic updates, with  
7 the situation involving the Covid-19 emergency.  
8 Everybody's seen those and a lot of people have said  
9 they have not receive those and I'll address those in  
10 a minute. But the PRPB has respectfully complied  
11 with every request that it has received. And we have  
12 actually gone so far as to produce more information  
13 than is required under the monitoring process to  
14 comply with the information requests in light of the  
15 Covid-19 and also so the national guard matter which  
16 I will address briefly later.

17 So on behalf of the Commonwealth, on behalf  
18 of Secretary Janer and on behalf of Commissioner  
19 Escalera I apologize for the fact that the secretary  
20 is not here today. We will submit whatever document  
21 or motion is necessary to be submitted to explain  
22 this situation to the Court in writing but, again, I  
23 assure that no disrespect was intended. I will  
24 inform Secretary Janer about your statements, Your  
25 Honor, so that if he wishes to put something

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1 particularly in writing he can do so with our  
2 assistance.

3 Let me now turn to the issues on the agenda.  
4 I'd like to speak about where the PRPB is today on  
5 the Covid-19 situation so that I can update and  
6 further update which is timely as of yesterday. As  
7 of yesterday, only 119 police agents were  
8 quarantined. So the numbers at least have gone down  
9 drastically, and they have gone down drastically  
10 obviously because of the implementation Covid-19  
11 protocol and the safety precautions that the PRPB has  
12 been taking with respect to their agents. Only 76  
13 positive cases have been reported. And, as all of  
14 you, we also sincerely feel the death of the two  
15 agents. Any death is unfortunate in particular with  
16 respect to first responders like these two police  
17 officers. So I join my voice and Lizzie's voice and  
18 the entire team to our offer condolences to the  
19 families of those officers which are linked to  
20 Commissioner Escalera and to Colonel Vega.

21 With respect to the Covid-19 situation the  
22 reform office continues to work both at the  
23 headquarters and remotely virtually and so the work  
24 of the reform office has never stopped, it has  
25 continued. As of today, PRPB has provided equipment

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1 to all of the agents including hand sanitizers,  
2 masks, disinfectant, and they are following the  
3 strict Covid-19 protocol that was adopted with the  
4 help of the parties in the case and the monitor.

5 As of today, I'm happy to report, that no  
6 headquarter, no *cuartel*, no precinct is closed due to  
7 the Covid-19 quarantine efforts that we have had in  
8 the past. So all the precincts are open. Hello?  
9 Hello?

10 THE COURTROOM DEPUTY: I think he's gone.

11 THE COURT: Let's wait. He'll reconnect.  
12 Let's just wait here.

13 (Proceedings paused.)

14 MR. GARCÍA-SOLA: Good to see you again. So  
15 continuing with the opening statement, with respect  
16 to the national guard, the national guardsmen  
17 continue to provide the same services that they were  
18 providing all along. Mostly, they're working on the  
19 administration of Covid-19 tests. Now that the  
20 funding has been withdrawn, we do not expect that the  
21 national guard will be engaged in any further  
22 activities other than those that they are already  
23 working with which are the testing.

24 The governor recently announced that they  
25 will also be providing six regional warehouses that

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1 are there to store and provide the food distribution  
2 system during the emergency. The national guard has  
3 also been working with municipalities in response to  
4 the emergency on the different scenarios but has not  
5 involved any kind of law enforcement activities. And  
6 to date we continue to understand that based on the  
7 order issued by the Court no law enforcement  
8 activities will be performed or have been performed  
9 by the national guard.

10 The other thing I need to say in opening is  
11 that we provided a plan, an operational plan, on the  
12 potential use of national guard, if they would ever  
13 be called back, but that plan does not constitute  
14 because of the order any law enforcement activities  
15 or duties to be provided or given to the national  
16 guardsmen. So we think that they will continue to  
17 provide the same services that they have provided  
18 throughout the emergency.

19 And I neglected to say that that plan was  
20 provided to the special master upon his request  
21 detailing the particular operational duties non-law  
22 enforcement that the national guardsmen may be  
23 involved with should they be deployed during an  
24 emergency. And that was provided within the deadline  
25 to the special master and the parties, as well as the

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1 monitor.

2 Let me now address the issues on the agenda  
3 quickly. With respect to the academy and the  
4 training, because of the Covid-19 emergency obviously  
5 the academy is now closed. And the academy, just as  
6 every other educational center, the academy is in  
7 Phase 4 of the reopening process. So they are not  
8 open and will not open any time soon because the  
9 academy, the way that they give the training, give  
10 the courses, is in a classroom style and the social  
11 distancing requirements do not allow for those  
12 conditions to be met.

13 Nevertheless, I should say that the academy  
14 is involved -- has started a process, an RSD process,  
15 of obtaining the technology necessary to provide  
16 instruction in light of the closure of the academy.  
17 That process has started. There was a presentation  
18 to us recently on the effort. The idea is ripe, more  
19 robust than the usual training in the academy. So  
20 I'm happy to say that that is a process that has just  
21 begun.

22 Yeah. As long as -- with respect to the  
23 opening of the office, as soon as Phase 4 of the  
24 reopening process, I believe we are now in Phase 2,  
25 as soon as Phase 4 --



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1 THE COURTROOM DEPUTY: Excuse me, Counsel.  
2 I think the judge is gone.

3 THE COURT: I am here. I am listening.

4 THE COURTROOM DEPUTY: Oh, okay. We just  
5 can't see you anymore but if you're here, you're  
6 okay.

7 MR. GARCÍA-SOLA: Okay. Should I continue?  
8 So the academy has also prepared, put together, a  
9 very robust plan to reopen which also again a  
10 presentation was given, was provided to us or given  
11 to us just yesterday or the day before yesterday. I  
12 think yesterday. Right? Yeah, yesterday.

13 I am also happy to report that the efforts  
14 to continue to recruit for the class 230 has  
15 continued. Yesterday there were 74 candidates sworn  
16 in to the 230 class and efforts continue. We are  
17 also coordinating -- PRPB is also coordinating with  
18 the national guard so that Covid-19 tests be given to  
19 all of them so that, provided that the test comes  
20 back negative, they can rejoin the class 230 as soon  
21 as class 230 commences at the academy.

22 With respect to class 229, Covid-19 started  
23 when -- during the second week of the second cycle of  
24 the class, at least the second cycle of four cycles.  
25 So that means that since that second week of the

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1 second cycle the training at the academy has stopped,  
2 has ceased. But, as I said, the academy has put  
3 together a plan to reinitiate the training, and the  
4 retraining by the way, as quickly as possible  
5 following strict Covid-19 reopening protocols as soon  
6 as Phase 4 commences. So we are conscious that this  
7 is a very important effort and that's why the PRPB  
8 has prepared this very strong and very robust  
9 protocol.

10 With respect to community engagement, I  
11 learned today of the efforts that the monitor and the  
12 U.S. DOJ has talked about, which is very good. I  
13 understand from the monitor that there will be two  
14 meetings next week. That's good, it means that  
15 efforts continue notwithstanding the closure orders.  
16 The PRPB has also continued to conduct community  
17 efforts during the pandemic. I'm not going to tell  
18 you all of those, but I have here a summary of all  
19 the activities that have been going on. They include  
20 things such as on May 9th there was a visit to  
21 *residenciales*, projects, on occasion of the Mother's  
22 Day to provide gifts and continue to provide  
23 orientations on Covid-19 pensions. This was is in  
24 Aguadilla.

25 There was also a monthly meeting that

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1 happened on May 12, 2020. In other regions the  
2 police they have also had meetings, I'll just mention  
3 some of those. For instance, in Guayama there was a  
4 meeting on May 18th, a virtual meeting on May 18th.  
5 In Mayagüez, there was a virtual meeting on May 19th.  
6 In the Bayamón region they had conducted surveys on  
7 the Covid-19 protocol. They have also visited  
8 hospitals and homes. In Carolina, they have also  
9 conducted visits to hospitals in particular to  
10 recognize the work of the first responders, putting  
11 obviously the nurses and the physicians. In Ponce,  
12 on May 15th, there was a virtual meeting to inform  
13 everybody about different matters, community matters.

14 There was also a meeting on the 26th to  
15 distribute to the communities donations of food and  
16 other articles. On May 14th and on May 12th messages  
17 to the communities in support of a collection at  
18 other agencies were distributed. So the community  
19 efforts have been continuing in the best way possible  
20 notwithstanding the Covid-19 emergency.

21 With respect to the IT update, Your Honor  
22 and the parties, the biggest effort on the IT was our  
23 efforts to recruit AH Datalytics, Ben Horwitz's firm.  
24 Those efforts have continued dispute the pandemic.  
25 We have been in the constant communications with him.

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1 The contract has been approved. We are now in a  
2 phase of searching for all the certifications, and as  
3 many of the agencies are closed we are still in that  
4 process. Our firm is helping Ben and AH Datalytics  
5 to try to finalize that effort, but the contract has  
6 been approved including an amendment to the contract  
7 to provide for reimbursement of funds.

8 And we also submitted that contract to the  
9 fiscal board for approval, and I'll talk about the  
10 fiscal board in a few moments, but the PRPB needs to  
11 have this contract finalized. And the objective is  
12 to get it finalized as quickly as possible because  
13 Mr. Horwitz and his team will be conducting a PRPB  
14 analysis or GAAP analysis that will then feed all of  
15 the efforts on the IT front.

16 We recognize that there are challenges. The  
17 PRPB is answering those challenges and working to  
18 improve the situation as quickly as possible.  
19 However, I need to stress that all of the data that  
20 has been requested, all of the challenges with the  
21 data that has been brought to our attention have been  
22 discussed and resolved including the one that Luis  
23 mentioned with respect to the use of force. Very  
24 quick action was taken.

25 We came to be aware that there was a gap in

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1 the reporting. We met with the different sides of  
2 the agencies, resolved the situation as quickly as  
3 possible, and then provided updates to the use of  
4 force data that had been provided so that there would  
5 be no further gaps. There were meetings that took  
6 place at the very high levels of the agencies. The  
7 data issues were resolved and I think, I believe --  
8 Mr. Monitor, John, you can tell me whether that's not  
9 the case -- but I believe that they were quickly  
10 resolved. And the data, the new data, was supplied  
11 as soon as it became available within, I would say,  
12 weeks but I don't remember exactly the time.

13 So we continue to work on update to the IT.  
14 The important IT contracts have already been approved  
15 and, as I indicated to the parties in earlier  
16 conversations, I don't believe that I had indicated  
17 this to the Court, the PRPB has requested the fiscal  
18 board to approve a substantial increase in the budget  
19 to specifically address IT issues. We are requesting  
20 an increase of \$11 million per year for at least five  
21 years, so that means that the budget will go up to  
22 \$31 million. And the information that we have  
23 received we have meetings and I've had continued  
24 communications with the fiscal board.

25 While I still do not have an approval from

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1 the fiscal board, the fiscal board just yesterday  
2 approved a revised fiscal plan and now they're going  
3 to be going into the approval of the budget. So I am  
4 assuming that very soon they will actually be issuing  
5 the approval I'm hoping to get because I received the  
6 indication that there were no issues with the  
7 request. And I do hope that the fiscal board  
8 authorizes the increase. And, as I indicated, that  
9 increase is exclusively for IT issues.

10 And, by the way, I should say that the  
11 \$11 million is going to be going into the reform's  
12 budget, not the operational budget. Obviously the  
13 reform budget is part of the operational budget but  
14 it is going to be included in the reform office's  
15 budget so that it's directly managed by the reform  
16 office in the IT updating efforts.

17 I just want to address briefly some of the  
18 comments that were made respect to the IT. As I  
19 said, we have the same concerns. Actually the  
20 commissioner, the reform office, they all share the  
21 concerns. That's why they have taken measures to  
22 ensure that IT comes up-to-date as quickly as  
23 possible and that's this was all channeled or has all  
24 been channeled to IT.

25 So, I think that we are working on the

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1 problems with the data collection, the quality and  
2 the integrity, and that's why we had the meeting last  
3 week regarding where the data collection efforts and  
4 quality of the data was discussed. I thought that it  
5 was a very good collaborative efforts with the  
6 monitor and Dr. Levy, the special master, the U.S.  
7 DOJ and the PRPB, and I think that positive efforts  
8 will come out of the those discussions.

9 On the remote monitoring while we realize  
10 that IT efforts or challenges impact the monitoring  
11 efforts remotely, the fact is that, as some of us  
12 have indicated throughout the meeting, the monitoring  
13 has continued to the extent that the data has been  
14 produced. The requests for data have been answered  
15 and the data is available. Of course it is massive,  
16 particularly to some areas, and that makes it more  
17 difficult for the process of monitoring, but the data  
18 that is available it is accessible and it can be  
19 reviewed by the monitoring team as I understand  
20 they're actually reviewing.

21 On the Covid protocol for PRPB, as you know,  
22 it was adopted based on the collaborative efforts  
23 between the parties. The protocol was posted in  
24 Policía Informa. A two-sheet version of the protocol  
25 which is much more extensive than the two-sided

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1 protocol that was prepared is available and has also  
2 been posted. So the more important thing about the  
3 Covid-19 protocol is that I think that the numbers  
4 show that the robust protocol that was adopted is not  
5 only being implemented but has given us positive  
6 results.

7 (Transmission interrupted.)

8 SPECIAL MASTER DEL CARMEN: We lost your  
9 voice, Arturo.

10 MR. GARCÍA-SOLA: Sorry. I was just saying  
11 that the numbers are the best evidence that the  
12 COVID-19 protocol is not only being implemented but  
13 it's also given positive results. From 1,000  
14 officers in quarantine to 189 yesterday only 76  
15 cases, positive cases, were reported. I don't want  
16 to diminish because, as I said before, any death is  
17 significant and important, but they have been  
18 limited, and I believe to a very large extent that  
19 the robust protocol is responsible for that. And the  
20 commitment by the PRPB to continue to take all the  
21 measures necessary, the reporting process, all of  
22 that has helped in bringing those numbers down.

23 Let's remember that the police have been out  
24 there at the beginning of the crisis and there were  
25 shortfalls of PPE and so it was not widely available,



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1 but the police took rapid action through the efforts  
2 personally by the commissioner in making sure that  
3 the PPE was available to all and has been available  
4 to all. Honorable Judge Gelpí indicated that he saw  
5 in his few outings -- by the way, Judge Gelpí, I have  
6 also had very few outings out of my house. I'd  
7 rather stay home. But I too have seen the police  
8 officers out on the line taking care of folks and  
9 doing their job and doing their job in the right way,  
10 taking the precautions necessary. Just this morning  
11 as I was coming into the office I saw a police  
12 officer, wearing his mask and also wearing gloves,  
13 stopping a person who in his car had run red light --  
14 ran the light, the red light.

15 So, with that, I am encouraged by the  
16 numbers. I believe that the police has done an  
17 amazing effort in working through the emergency and  
18 being out there trying to protect the citizenry. I  
19 also feel that what happened on May 1st is also a  
20 testament to the efforts. Obviously there wasn't as  
21 much activity as was contemplated, but whatever  
22 activity there was in protesting whatever people  
23 wanted to protest were allowed to happen, were  
24 allowed to happen within the confines of the security  
25 efforts. There were, to my knowledge, no use of

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1 force incidents that I know about. And, as I'm sure  
2 you know, the protesters did not comport themselves  
3 as they should have. And I believe you probably know  
4 about the incident at La Fortaleza with the big  
5 heads. Everybody was allowed to do their protesting  
6 and also some even went inside the perimeter of Old  
7 San Juan which the police had determined has to be  
8 closed off. And the protesting was allowed to  
9 continue just not inside of Old San Juan for security  
10 reasons not only for the police but also for the  
11 residents of Old San Juan. However, a group of the  
12 protesters were able to go in. They were not  
13 expelled; they were allowed to have their protests as  
14 close to La Fortaleza as the gates at La Fortaleza  
15 and that's where they had the souvenirs.

16 So that's all I have to say. I don't know  
17 if the judge has any questions or anybody. Thank you  
18 for allowing us the opportunity to speak and to  
19 continue the process of moving forward with the  
20 reform.

21 THE COURT: Okay, thank you to all. Let me  
22 ask Mr. Saucedo or Mr. Castillo I know you're also  
23 there. I think that Mr. Mygatt probably covered  
24 probably all that you were going to say, but if  
25 there's anything you want to respond briefly to

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1 anything, please do so.

2 MR. SAUCEDO: Yes, Your Honor. This is Luis  
3 Saucedo. We do want to address the data and  
4 collection and production issues that Mr. García  
5 raised. Last week we held a conference call with  
6 Dr. Levy from the Monitor's office to go over the  
7 sampling proposal that he put forward and we know a  
8 lot of work went into that, but we were very  
9 concerned that all of this work and effort would go  
10 into trying to draw a scientific sample, a valid  
11 representative sample from PRPB's data, and that we  
12 were doing so knowing some very important red flags  
13 about PRPB's data.

14 First of all, we know that all of the --  
15 many, if not all, of the data systems are still being  
16 developed and implemented. So we've fallen behind on  
17 the implementation of those data systems. We know  
18 that there are efforts underway to move them forward  
19 but they have not been implemented fully and that  
20 work is still underway.

21 Number two, we know that there's no  
22 consistent quality control of the data going in the  
23 system. There's a dearth of data analysts at the  
24 PRPB and we hope that that's part of the  
25 implementation plans for the Commonwealth to have

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1 those data analysts on board. Number two -- or,  
2 excuse me, number three, the Commonwealth are still  
3 bringing onboard their data expert to help them  
4 internalize this compliance data so that they can  
5 rely on it for their own daily operations.

6 And then fourth, Your Honor, the use of  
7 force data discrepancies were only discovered after  
8 the monitoring meticulously went through all the data  
9 productions from the Commonwealth. And so they had  
10 gone through all the various levels of review by the  
11 police and were still reported to the monitor and  
12 we're now seeing more than double uses of force.

13 So they're very -- we actually think, Your  
14 Honor, that it would be irresponsible to go forward  
15 with sampling of data and to pretend that it's going  
16 to be representative when there's still these huge  
17 gaps in the quality of the data.

18 In fact, Your Honor, during our conference  
19 call last week the Commonwealth told us that because  
20 of the discrepancies on use of force data that they  
21 were going to go back and check other data production  
22 like arrests and other information that's been  
23 provided. And because there are still these  
24 questions about what data is being requested and  
25 produced and what that data is we've agreed to have

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1 the conference calls on each of the different 11  
2 areas of the agreement with the special master to  
3 find out whether these data systems are in place and  
4 whether the data is ready to be relied upon for  
5 monitoring.

6 THE COURT: Okay, thank you. And let me  
7 share with everybody this is a concern, and I'm aware  
8 of this. The special master and the monitor have  
9 mentioned this before. And this is not a two-prong,  
10 this has been ongoing throughout the reform, the  
11 accuracy of the data. So it's very important again  
12 that everybody continue to work with the special  
13 master.

14 Again, IT, once the new budget clicks in I  
15 think that's going to be the first step because if  
16 not we're going back to 1950 where everything was  
17 kept by hand. And, again, that's -- there's no way  
18 to end this reform. Every day that that does not  
19 occur is one more day that we cannot move forward.  
20 And, again, I am retiring in ten years, I've said it,  
21 and this has to be over way before that. Nobody is  
22 going to inherit this from me.

23 Okay, so if Mr. García has anything to  
24 respond or reply to Mr. Saucedo, please do so and  
25 then I'll give some concluding thoughts.

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1           MR. GARCÍA-SOLA: Yes, just very briefly,  
2           Your Honor. We are concerned about the data gaps,  
3           very concerned. Actions are being taken. Actions  
4           were taken. The discovery of the gaps through the  
5           monitoring process, well that's what the monitoring  
6           process is supposed to be. Because of the monitoring  
7           process we became aware of the gaps. And the PRPB --  
8           I recognize that the PRPB does not have the best IT  
9           resources that it needs to have. And, as I said  
10          before, \$11 million are going to be going into that  
11          effort every year. So I think that the PRPB is  
12          taking the steps necessary to ensure that the gaps  
13          and other problems related to IT get resolved.

14          But this is part of the implementation of  
15          the monitoring process; we are starting with the  
16          monitoring process and the compliance period. It's  
17          best that it happens now when we are just in CMR-2  
18          data collection process and compliance with the  
19          monitoring process then if it were to happen later on  
20          in the process. The important thing is that the PRPB  
21          is committed to take the actions necessary to improve  
22          the IT's efforts. That is something that is very  
23          close to the secretary and in particular to the  
24          commissioner that this be handled as quickly as  
25          possible. They are following up on the efforts to

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1 bring Ben Horwitz and his partner AH Datalytics as  
2 quickly as possible to Puerto Rico. And that is part  
3 of the biggest effort because the idea is that Ben  
4 not only participate in the gap analysis but that he  
5 continue on a second phase of updating the IT  
6 processes. So that's my response to Counsel Saucedo.

7 THE COURT: Thank you. And, again,  
8 everybody will continue to work on this, again, it is  
9 a problem. The monitor, as you acknowledged,  
10 Mr. García, detected this and that's why it's very  
11 important to have the monitor doing what he does.  
12 Now, let me just mention something else about the  
13 monitoring. You had mentioned the project. I do  
14 want to mention that the budget for the monitor for  
15 the next fiscal year, beginning July 1st, will be  
16 exactly the same budget as in the 2019-2020 fiscal  
17 year, so it has not increased. And also that for the  
18 special master will remain constant, and there's an  
19 order to that effect. And, again, I just gave the  
20 parties some additional time if they thought an  
21 additional budget was necessary but nobody requested  
22 it. So we will go on with that.

23 I do want to note also that Monitor Romero  
24 has done an extremely good job of utilizing his  
25 budget and we are in the process now of obviously for

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1 the monitoring of strengthening the Monitor's office.  
2 I am, obviously along with him in the active process  
3 of recruiting personnel and resources to continue  
4 monitoring and working on all the different matters  
5 the monitor needs. I recently informed and obviously  
6 since you don't have time so you don't have to  
7 address it, of the person he has selected as special  
8 counsel so that you both, U.S. DOJ and the  
9 Commonwealth, can determine to make sure there is no  
10 conflict of interest; and, number two, that obviously  
11 the Court and monitors interview and qualifications  
12 are corresponding. And that's the due diligence  
13 pursuant to the agreement. We will continue within  
14 the next couple of months. I would expect that  
15 perhaps July, by August the latest, the monitor will  
16 have additional staff and this will enable the team  
17 to work best.

18 And something I think that U.S. DOJ has  
19 noted which is important, we do have -- now with the  
20 Covid we have to look for additional individuals here  
21 in Puerto Rico who can continue also to support the  
22 monitor. Again, some will have to be from the  
23 mainland but again we're also including locally, and  
24 that's something that will be worked out.

25 The last matter I just want to mention is,



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1 and again we're going to move on forward, but again I  
2 note what Mr. García has stated about Secretary Janer  
3 not being present. I think, and I will be extremely  
4 blunt about it, contacting the monitor or the special  
5 master rather than filing a motion at whatever time  
6 which the Court could have reviewed early this  
7 morning is not effective. More so, U.S. DOJ was not  
8 contacted, to the best of my knowledge. And  
9 Mr. Janer obviously he will have to be here at the  
10 next hearing, but he's a very important person here.  
11 In the same way Mr. Mygatt appeared, that's the sort  
12 of input that is essential from Mr. Janer.

13 So, again, the special master informed me  
14 earlier when I woke up and was ready and preparing  
15 for this and then I get the phone calls trying to  
16 suspend or cancel everything. Again, that's not the  
17 way to proceed. Next time I expect all this will  
18 happen. And I'm sure if the governor knew that  
19 Mr. Janer had to be here, I'm sure he would be here.

20 I think this is -- and I'm not saying it's  
21 you necessarily, Mr. García, because again you're  
22 doing other things also but there has to be a chain  
23 of command or there has to be accountability. And  
24 something as important as the police reform, the  
25 governor should know, and I'm not saying it's you who

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1 has to notify her, but somebody had to notify her  
2 that Secretary Janer had to be here.

3 So, again, I will not -- as Judge Selya  
4 would say, I will not wax longiloquent on this  
5 matter. This hearing is adjourned until the next  
6 status conference. Continue to work collaboratively  
7 and move on, and I commend all on the work with the  
8 protocol. And, again, we have seen the importance of  
9 that here.

10 We're going to take a short recess and then  
11 we have the second case. Mr. García you're in that  
12 case. That's the other case involving the other  
13 consent decree of the police. So the monitor,  
14 special master, and counsel will remain in case I  
15 need their help in anything for that case. And I'll  
16 unmute myself and come back once everybody's ready.

17 MR. GARCÍA-SOLA: Thank you, Your Honor.

18 MR. SAUCEDO: Thank you, Your Honor.

19 (Status conference concluded at 11:50 a.m.)

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## Status Conference

1 UNITED STATES DISTRICT COURT )  
2 OF ) ss.  
3 PUERTO RICO )  
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CERTIFICATE

7  
8  
9  
10 I, EVILYS E. CARRIÓN-ESQUILÍN, hereby  
11 certify that the proceedings are contained fully and  
12 accurately, to the best of my ability, in the notes  
13 recorded stenographically by me, at the status  
14 conference in the above matter; and that the  
15 foregoing is a true and accurate transcript of the  
16 same.  
17

18 /s/ Evilys E. Carrión-Esquilín

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25